

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

INTERNATIONAL RECTIFIER, a )  
Delaware corporation, )  
 )  
Plaintiff, ) No. CV 08-05869 R  
 )  
vs. )  
 )  
ALEX LIDOW, an individual, et al., )  
 )  
Defendants. )

TRANSCRIPT OF PROCEEDINGS

THE HONORABLE MANUEL L. REAL, U.S. DISTRICT JUDGE PRESIDING  
LOS ANGELES, CALIFORNIA

FEBRUARY 2, 2009

MOTION HEARING

BRIDGET R. MONTERO CSR 10020, CRR  
United States Courthouse  
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Internal File No. 09013, #12

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1 MONDAY, FEBRUARY 2, 2009; 10:33 A.M.

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3  
4 THE CLERK: Calling Item 12, CV 08-5869,  
5 International Rectifier v. Alex Lidow, et al.  
6 Counsel, your appearances, please.

7 MR. SILBERFELD: Good morning, Your Honor. Roman  
8 Silberfeld for the plaintiff.

9 MR. GEIBELSON: Good morning, Your Honor. Michael  
10 Geibelson for the plaintiff.

11 MR. ROSE: Good morning. Robert Rose for the  
12 plaintiff.

13 MR. SACKS: Good morning, Your Honor. Robert  
14 Sacks and Diane McGimsey from Sullivan & Cromwell for  
15 Defendants Efficient Power Conversion Corporation and all of  
16 the individuals except for David Tam and Stephen Tsang.

17 MS. MACISAAC: Good morning, Your Honor. Suann  
18 MacIsaac and William Walker for the Defendant Aixtron AG.

19 THE COURT: All right. Counsel, anything to add  
20 to the documents which have been filed?

21 MR. SACKS: No, Your Honor.

22 MS. MACISAAC: No, Your Honor.

23 MR. ROSE: Your Honor, just two observations about  
24 the reply briefs.

25 Robert Rose for the plaintiff.

1           One is, I believe in the case of Aixtron, they  
2 understated their role as alleged as being merely a vendor.  
3 This is a situation where the equipment and the trade  
4 secrets are both necessary in order to carry out the success  
5 of the scheme. I believe the interaction between having  
6 equipment and working with the same people, using the same  
7 trade secrets, constitutes managing the enterprise.

8           Your Honor, the only other observation is with  
9 respect to what I would call the EPCC defendants who have  
10 filed a reply that focuses on several lower court opinions  
11 talking about whether a RICO enterprise is too long or too  
12 short.

13           I would simply reflect back on -- there's several  
14 Ninth Circuit decisions that deal with this, including the  
15 *Turner* case, which -- which is helpful to the Court and  
16 supports our allegations that this scheme has an open-ended  
17 nature to it.

18           Thank you, Your Honor.

19           Mr. Silberfeld --

20           MR. SILBERFELD: Nothing else, Your Honor.

21           THE COURT: All right. The motion to dismiss the  
22 Defendants A. Lidow, Efficient Power Conversion Corporation,  
23 Robert Beach, JianJuan Cao, Alana Nakata, and Guangyuan  
24 Zhao: On the RICO claims, International Rectifier has  
25 failed to plead facts sufficient to establish the existence

1 of a continuing racketeering activity or threat thereof.  
2 Plaintiff has, thus, failed to allege a pattern of  
3 racketeering activity, and under the RICO statute, Title 18,  
4 United States Code, section 1962(c), continuity is either a  
5 closed period of repeated conduct over a substantial time or  
6 past conduct that is -- that by its nature projects into the  
7 future with a threat of repetition. Plaintiff's allegations  
8 of wrongful conduct are insufficient to establish either  
9 closed or open-end continuity.

10 While plaintiff alleges several acts, the scheme  
11 essentially centered on conduct of the fall of 2007 to  
12 deprive a single victim of confidential information. That  
13 defendant's continued to benefit from the information or  
14 that plaintiff continued to suffer does not alter the facts  
15 that the alleged misappropriation or conversion was complete  
16 once the information was taken. Moreover, that plaintiff is  
17 the only victim gravitates against a pattern of racketeering  
18 activity.

19 Plaintiff's conspiracy claim under 1962(d)  
20 necessarily fails as well, since plaintiff failed to state a  
21 RICO claim under 1962(c).

22 Of the remaining claims, there are no other  
23 federal law claims. This Court declines supplemental  
24 jurisdiction over the remaining state law claims under 28,  
25 USC, section 1367(c). Economy, convenience, fairness, and

1 comity are best served by dismissing without prejudice the  
2 state law claims.

3 As to the Defendant Aixtron, the motion to  
4 dismiss, the defendant -- the motion is granted in part and  
5 denied in part. The same reasoning applies here as to the  
6 ruling in the other -- in the other motion to dismiss on  
7 calendar.

8 Plaintiff's 1962(c) and 1963(d) claims are thus  
9 dismissed, and there being no other federal claims, this  
10 Court declines supplemental jurisdiction over the remaining  
11 state law claims.

12 In addition, on the RICO claim against Aixtron,  
13 plaintiff failed to sufficiently plead the conduct  
14 requirement. Plaintiff fails to sufficiently allege that  
15 Aixtron was involved in the management and operation of the  
16 alleged enterprise, as required by *Reves v. Ernst & Young*,  
17 507 U.S. 107, 1993, Supreme Court.

18 Counsel are to prepare the orders.

19 MR. SACKS: Thank you, Your Honor.

20 MR. GEIBELSON: Your Honor, if I may require if  
21 it's with leave to amend or without?

22 THE COURT: Leave to amend as to each. Ten days  
23 to amend.

24 MR. GEIBELSON: I would just note for the Court,  
25 that if it's plaintiff's decision not to amend with respect

1 to the RICO claims, it would not be our intention not to  
2 pursue the remainder of the claims such that --

3 THE COURT: Well, then there's no -- you can bring  
4 a new action, but there's no claim that would now fit to  
5 file a new -- on the same complaint.

6 MR. GEIBELSON: Thank you, Your Honor.

7 THE COURT: All right.

8 (Proceedings concluded at 10:39 a.m.)  
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13 C E R T I F I C A T E  
14

15 I hereby certify that the foregoing is a true and  
16 correct transcript from the stenographic record of the  
17 proceedings in the foregoing matter.  
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19 \_\_\_\_\_  
20 Bridget R. Montero  
21 Official Court Reporter  
22 CSR No. 10020  
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Date: February 6, 2009